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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/190,788 11/12/98 MACROGLOU

C 97-019-DIV

EXAMINER

QM12/0418

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GORDON, R

ART UNIT

PAPER NUMBER

3711

DATE MAILED:

//  
04/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/190,788

Applicant(s)  
Christopher N. Macroglou

Examiner  
Raeann Gorden

Group Art Unit  
3711



☒ Responsive to communication(s) filed on Mar 15, 2001

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1, 2, and 13-26 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 2, and 13-26 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claim 1, 2, 13, and 14-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harkness. Harkness discloses a device support member worn around a person's head and an attached laser light (abstract) generating a linear alignment beam of light visible to the person to provide an alignment of the person's body when in position to perform the task as stated in claims 1 and 2 (figs. 2 and 3). Harkness also discloses a cylindrical lens and positions of the lens directing the beam of light as in claim 2 (fig 4 and col 3, lines 20-26).
3. Claims 1, 2, 13, 14-18, and 21-24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Varriano.

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harkness.

Regarding claims 19, 20, 25, and 26, Harkness does not disclose the device around the chest or hips of the user. However, Harkness does disclose the device as being interchangeable among different items. One skilled in the art would have placed the device around the chest or hips to identify the proper stance. Regarding the claims 21-24, Harkness reveals that the device may be used to identify excessive movements of the head and upper body (col 6, lines 8-10). Alignment and movement are synonymous in this instance. The reference uses the beam of light to watch for excessive movement before a swing or in other words adjusting his/herself to achieve an optimal golfing stance prior to the swing. Applicant uses the beam of light to align his/her body to achieve the proper stance before the swing.

***Response to Arguments***

6. Applicant's arguments filed March 15, 2001 have been fully considered but they are not persuasive. The applicant argues Harkness does not disclose a cylindrical lens positioned transversely to a light beam emanating from the laser. Harkness clearly states a lens may be

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fastened to the free end of the laser to further focus the light (col 3, lines 20-26). Applicant also argues the reference discloses a method for using a light spot projecting aid to observe movements during a golf swing and does not disclose a method for aligning the user's body. The Examiner disagrees. First, the method of use is not relevant to the apparatus claims. The intended use of an apparatus can not further limit the structure. Secondly, the new method claims are encompassed by Harkness. Alignment and movement are synonymous in this instance. Col 6, lines 8-10 reveals the device used to identify excessive movements of the head and upper body. A beam of light is used to watch for excessive movement before and during a swing or in other words adjusting his/herself to achieve an optimal golfing stance prior to and during the swing. Applicant uses the beam of light to align his/her body to achieve the proper stance before the swing. Both methods are intended for the user to achieve a proper stance prior a golf swing. Harkness does not use the word alignment but the method inherently speaks to the user positioning the head and the upper body to achieve a proper swing.

### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is (703) 308-8354. The examiner can normally be reached Monday-Friday from 7:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeanette Chapman, can be reached on 703-308-1310. The fax number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

rg

April 6, 2001



Mark S. Graham  
Primary Examiner